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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,099	09/18/2003	Chikashi Iizuka	14470.0012US01	7132
23552	7590	03/16/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			YEAGLEY, DANIEL S	
			ART UNIT	PAPER NUMBER

3611

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,099

Applicant(s)

IIZUKA ET AL.

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: page 28, line 18 and line 23, the terms "rear wheel [61]" should be changed to --rear wheel 63--.

Appropriate corrections are required.

Claim Objections

2. Claims 1,3,5 and 7 are objected to because of the following informalities:

Regarding claim 1, line 5, the term "*the* center" should be changed to --*a* center--.

Regarding claim 1, line 10, the phrase "*the* longitudinal length of *the* underside" should be changed to --*a* longitudinal length of *an* underside--.

Regarding claim 3, last line, the term "*the* rear" should be changed to --*a* rear--.

Regarding claim 5, line 5, the term "*the* upper side" should be changed to --*an* upper side--.

Regarding claim 5, lines 5-6, the term "*the* lower side" should be changed to --*a* lower side--.

Regarding claim 5, line 6, the term "*the* engine" should be changed to --*an* engine--.

Regarding claim 5, line 10, the term "*the* rear part" should be changed to --*a* rear part--.

Regarding claim 5, line 13, the phrase "*the* longitudinal length of *the* underside" should be changed to --*a* longitudinal length of *an* underside--.

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 7, line 2, the term “*the body*” is considered indefinite because it is unclear if applicant is referring to *the body cover* or *the body frame*.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. .

6. Claims 1 and 3 – 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nomura ‘719.

Nomura shows in figure 4 a rear cushion installation structure of a low floor vehicle (motorcycle), wherein the rear cushion and seat structure comprises a body frame (diamond frame) composed of right and left upper frames 22 or 214 that extend backward and downward from an upper side of a head pipe 212 and includes down frame consisting of left and right lower frames 216 extending downward from a lower side of the head pipe (figure 7), wherein an engine 218 is coupled to the upper and lower frames (column 5, line 43-61), such that the cylinder

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portions of the engine are positioned between the upper frames, and such that the rear cushion extends along the rear part of the upper frames horizontally attached to the upper frames (figure 4) and is further arranged in a center of the vehicle body transversely under an adjacent housing box (figure 1 and 5), wherein the housing box is arranged under a seat 16 and comprises a lid and defines a housing space above a bottom surface of the box which has a length that substantially equals the length of an underside of the seat (as shown in figure 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al '719 in view of Iiga et al '646.

Nomura disclosed a rear cushion installation structure of a low floor vehicle (motorcycle) having a housing box which is clearly readable as having a lid and defines a housing space above a bottom surface of the box with a length that substantially equals a length of an underside of a seat (as shown in figure 5), wherein the surface of the box is shown with various apertures with lids (figure 5) and further shows apertures in a bottom surface of a seat support below the box as shown in (figure 3) which would be adjacent the rear cushion (figure 2) but failed to disclose a lid provided at the bottom surface of the box.

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Iiga shows another type of low floor vehicle (motorcycle) having a rear cushion installation structure 47 and 49 which are adjacent a housing box that is substantially equal to a length of an underside of a hinged seat, wherein the box incorporates a lid 164 provided at the bottom of the housing box 160 (figure 16-17) for checking (inspection of) a component of the vehicle (column 5, line 31-38) which is clearly capable of inspecting the rear cushion structure of element 49).

It would have been obvious to one of ordinary skill in the art to have modified the box of Nomura vehicle with an additional inspection lid positioned at the bottom surface of the box for the purpose of inspecting components of the low floor vehicle that are positioned adjacent or below the box such as taught by Iiga to inspect a spark plug component and which is clearly capable of being utilized to additionally inspect other components of the vehicle that are positioned adjacent or below the box such as a rear cushion structure as suggested by the inspection lid of Iiga in relation to the rear cushion structure 49 of Iiga low floor vehicle.

Response to Arguments

9. Applicant's arguments filed 12/27/04 have been fully considered but they are not persuasive. Nomura clearly shows a low floor vehicle (i.e., a motorcycle), wherein the cylinders of the engine are between the upper frames (i.e.; looking down from a top view of the frame between the left and right frame members), such that the rear cushion and seat structure has a box under the seat which clearly has a bottom surface at the bottom of the housing space as broadly claimed and wherein the vehicle of Nomura is obviously a low floor vehicle which clearly has a body cover (seat support structure) which covers the vehicle body (frame) and

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includes a step floor (inherent foot boards or pegs which are commonly used on scooter and motorcycle), however; in response to applicant's arguments, the recitation of a low floor vehicle having a body cover for covering the vehicle body comprising a step floor has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takenaka et al '029 and Inayama '362 show a rear cushion installation structure on a diamond frame of a low floor vehicle with transversely mounted rear cushion in the center of the body under a housing box on the underside of a seat which includes a bottom surface lid.

Yagasaki '280 and Kawashima et al '292 show a horizontal rear cushion installation structure on a low floor vehicle with a transverse mounted rear cushion in the center of the body of the vehicle under a housing box on the underside of the seat.

Kimura et al '813 shows a low floor vehicle with a housing box under a seat which includes a lid on the bottom surface of the box.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is **703 - 305 - 0838**.

The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on **703 - 308 - 0629**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

In the near future; because of a pending move of the examining corps to a new campus, the examiner and SPE telephone numbers will change to **571 - 272 - 6655** and **571 - 272 - 6651**; respectively.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.

A handwritten signature in black ink that reads "Lesley D. Morris". The signature is fluid and cursive, with the first name "Lesley" being more prominent than the last name "Morris".

**LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600**